

**DISTRICT OF COLUMBIA**  
**DOH Office of Adjudication and Hearings**  
825 North Capitol Street N.E., Suite 5100  
Washington D.C. 20002

DISTRICT OF COLUMBIA  
DEPARTMENT OF HEALTH  
Petitioner,

v.

NEW IMAGE CHILD DEVELOPMENT  
CENTER and FLORNIA JEAN WALKER  
Respondents

Case No.: I-00-40409

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**FINAL ORDER**

**I. Introduction**

This case arises under the Civil Infractions Act of 1985 (D.C. Code §§ 6-2701 *et seq.* (1981 ed.)) and Title 29 Chapter 3 of the District of Columbia Municipal Regulations (“DCMR”). By Notice of Infraction (00-40409) served June 21, 2001, the Government charged Respondents New Image Child Development Center and Flornia Jean Walker with the following alleged violations: 29 DCMR 325.2 (admitting an infant/child without a complete health examination report as of March 30, 2001); 29 DCMR 326.3 (failing to maintain register for each infant/child as of March 30, 2001); 29 DCMR 315.4 (employing an unqualified teacher as of April 6, 2001); 29 DCMR 326.7 (maintaining incomplete employee records as of April 6, 2001); 29 DCMR 325.13 (failing to comply with employee annual health report requirements as of April 6, 2001)); 29 DCMR 316.2 (failing to maintain required child/staff ratio as of May 2, 2001); 29 DCMR 325.2 (admitting an infant/child without a complete health examination report

as of May 29, 2001; 29 DCMR 316.1 (exceeding child group size limitations as of May 31, 2001); 29 DCMR 316.2 (failing to maintain required child/staff ratio as of May 31, 2001); and 29 DCMR 315.10 (employing insufficient personnel to maintain sanitation and safety standards as of May 31, 2001). The Notice of Infraction charges that Respondent violated these provisions on the dates specified and sought fines of \$50 for the alleged violations of 29 DCMR §§ 326.3 and 326.7, and \$500 for the remaining eight (8) violations cited, for a total fine of \$4,100.00.

On July 10, 2001, this administrative court received Respondents' plea of Admit with Explanation to each of the alleged violations listed in Notice of Infraction (00-40409), along with a request for a reduction or suspension of the fines. By order dated July 17, 2001, I permitted the Government to submit a reply to Respondents' plea and request within ten (10) calendar days of the order's service date. The Government did not file a response within the allotted time. Accordingly, this matter is now ripe for adjudication.

## **II. Findings of Fact**

1. At all times relevant to this matter, Respondent New Image Child Development Center operated as a licensed child development center (CDC License No. 909208) at 2011 Savannah Street, SE. At all times relevant to this matter, Respondent Flornia Jean Walker served as Chief Executive Office and President of New Image Child Development Center.<sup>1</sup>

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<sup>1</sup> The Notice of Infraction (00-40409) identifies a "Florina" Walker as Respondent. However, in the explanation accompanying their plea, Respondent Walker identifies herself as "Flornia" Walker.

2. By their plea of Admit with Explanation, Respondent admit that they violated 29 DCMR 325.2 on March 30, 2001. Respondents explain that the child in question was related to Respondent Walker and was being contained in her office until the child's health records were submitted. The Government has not disputed this explanation.
3. On March 30, 2001, Respondents admitted a child without a complete health examination report.
4. By their plea of Admit with Explanation, Respondents admit that they violated 29 DCMR 326.3 on March 30, 2001. Respondents explain that they were given thirty (30) days to correct the registry problems and during that interval "75% have been corrected [and] the [remaining] 25% have been terminated effective May 4, 2001." The Government has not disputed this explanation.
5. On March 30, 2001, Respondents failed to maintain a register for each child.
6. By their plea of Admit with Explanation, Respondents admit that they violated 29 DCMR 315.4 on April 6, 2001. Respondents explain that its Director was assigned to the class during the teacher's absence. The Government has not disputed this explanation.
7. On April 6, 2001, Respondents utilized the services of an unqualified teacher.
8. By their plea of Admit with Explanation, Respondents admit that they violated 29 DCMR 326.7 on April 6, 2001. Respondents explain that their employees have now submitted required records. The Government has not disputed this explanation.
9. On April 6, 2001, Respondents failed to maintain complete employee records.

10. By their plea of Admit with Explanation, Respondents admit that they violated 29 DCMR 325.13 on April 6, 2001. Respondents explain that their employee records are now current. The Government has not disputed this explanation.
11. On April 6, 2001, Respondents failed to comply with the annual health examination requirements for its employees.
12. By their plea of Admit with Explanation, Respondents admit that they violated 29 DCMR 316.2 on May 2, 2001. Respondents explain that the violation occurred during lunch and that a staggered staff lunch schedule is now in place. The Government has not disputed this explanation.
13. On May 2, 2001, Respondents failed to maintain required child-staff ratios.
14. By their plea of Admit with Explanation, Respondents admit that they violated 29 DCMR 325.2 on May 29, 2001.<sup>2</sup>
15. On May 29, 2001, Respondents admitted a child without a complete health examination report.
16. By their plea of Admit with Explanation, Respondents admit that they violated 29 DCMR 316.1 on May 31, 2001. Respondents explain that the violation occurred due to an imminent staff shift change and illness. The Government has not disputed this explanation.
17. On May 31, 2001, Respondents exceeded child group size limitations.

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<sup>2</sup> In their explanation for this violation, Respondents request this administrative court to refer to the “explanation for 4/6/01.” As the 4/6/01 explanations do not appear relate to the charge of violating 29 DCMR 325.2, it appears that Respondents reference may be incorrect, and it is not clear from the record which date Respondents actually are referencing with respect to this violation. I, therefore, make no finding with respect to Respondents’ referenced explanation for this admitted violation.

18. By their plea of Admit with Explanation, Respondents admit that they violated 29 DCMR 316.2 on May 31, 2001. Respondents explain that their staff's schedules have now been adjusted to meet the required child-staff ratios. The Government has not disputed this explanation.
19. On May 31, 2001, Respondents failed to maintain required child-staff ratios.
20. By their plea of Admit with Explanation, Respondents admit that they violated 29 DCMR 315.10 on May 2, 2001. Respondents explain that, at the time of the violation, the children had just finished breakfast and the staff had not emptied the trash. The Government has not disputed this explanation.
21. On May 31, 2001, Respondents failed to have sufficient personnel to maintain required sanitation and safety standards.
22. Respondents have accepted responsibility for their unlawful conduct.
23. As reflected in the record, the Government issued Respondents Statements of Deficiencies and Plans of Correction on March 30, 2001, May 2, 2001, May 29, 2001 and May 31, 2001.

### **III. Conclusions of Law**

1. Respondents violated 29 DCMR 325.2 on March 30, 2001. A fine of \$500 is authorized for that violation. 16 DCMR 3222.1(l). In light of Respondents' acceptance of responsibility, the fine will be reduced to \$425. D.C. Code § 6-2712(a)(2) (1981 ed.); U.S.S.G. § 3E1.1; 18 U.S.C. § 3553.

2. Respondents violated 29 DCMR 326.3 on March 30, 2001. A fine of \$50 is authorized for that violation. 16 DCMR 3222.3. In light of Respondents' acceptance of responsibility, the fine will be reduced to \$40. D.C. Code § 6-2712(a)(2) (1981 ed.); U.S.S.G. § 3E1.1; 18 U.S.C. § 3553.
3. Respondents violated 29 DCMR 315.4 on April 6, 2001. A fine of \$500 is authorized for that violation. 16 DCMR 3222.1(g). In light of Respondents' acceptance of responsibility, the fine will be reduced to \$425. D.C. Code § 6-2712(a)(2) (1981 ed.); U.S.S.G. § 3E1.1; 18 U.S.C. § 3553.
4. Respondents violated 29 DCMR 326.7 on April 6, 2001. A fine of \$50 is authorized for that violation. 16 DCMR 3222.3. In light of Respondents' acceptance of responsibility, the fine will be reduced to \$40. D.C. Code § 6-2712(a)(2) (1981 ed.); U.S.S.G. § 3E1.1; 18 U.S.C. § 3553.
5. Respondents violated 29 DCMR 325.13 on April 6, 2001. A fine of \$500 is authorized for that violation. 16 DCMR 3222.1(r). In light of Respondents' acceptance of responsibility, the fine will be reduced to \$425. D.C. Code § 6-2712(a)(2) (1981 ed.); U.S.S.G. § 3E1.1; 18 U.S.C. § 3553.
6. Respondents violated 29 DCMR 316.2 on May 2, 2001. A fine of \$500 is authorized for that violation. 16 DCMR 3222.1(i). In light of Respondents' acceptance of responsibility, the fine will be reduced to \$425. D.C. Code § 6-2712(a)(2) (1981 ed.); U.S.S.G. § 3E1.1; 18 U.S.C. § 3553.
7. Respondents violated 29 DCMR 325.2 on May 29, 2001. A fine of \$500 is authorized for that violation. 16 DCMR 3222.1(l). In light of Respondents'

- acceptance of responsibility, the fine will be reduced to \$425. D.C. Code § 6-2712(a)(2) (1981 ed.); U.S.S.G. § 3E1.1; 18 U.S.C. § 3553.
8. Respondents violated 29 DCMR 316.1 on May 31, 2001. A fine of \$500 is authorized for that violation. 16 DCMR 3222.1(i). In light of Respondents' acceptance of responsibility, the fine will be reduced to \$425. D.C. Code § 6-2712(a)(2) (1981 ed.); U.S.S.G. § 3E1.1; 18 U.S.C. § 3553.
  9. Respondents violated 29 DCMR 316.2 on May 31, 2001. A fine of \$500 is authorized for that violation. 16 DCMR 3222.1(i). In light of Respondents' acceptance of responsibility, the fine will be reduced to \$425. D.C. Code § 6-2712(a)(2) (1981 ed.); U.S.S.G. § 3E1.1; 18 U.S.C. § 3553.
  10. Respondents violated 29 DCMR 315.10 on May 31, 2001. A fine of \$500 is authorized for that violation. 16 DCMR 3222.1(h). In light of Respondents' acceptance of responsibility, the fine will be reduced to \$425. D.C. Code §§ 6-2712(a)(2) (1981 ed.); U.S.S.G. § 3E1.1; 18 U.S.C. § 3553.
  11. Accordingly, Respondents shall be subject to total fines imposed as follows:

<b><u>Violation (date)</u></b>	<b><u>Fine Sought</u></b>	<b><u>Fine Imposed</u></b>
29 DCMR 325.2 (3/30/01)	\$500	\$425
29 DCMR 326.3 (3/30/01)	\$50	\$40
29 DCMR 315.4 (4/6/01)	\$500	\$425
29 DCMR 326.7 (4/6/01)	\$50	\$40
29 DCMR 325.13 (4/6/01)	\$500	\$425
29 DCMR 316.2 (5/2/01)	\$500	\$425
29 DCMR 325.2 (5/29/01)	\$500	\$425
29 DCMR 316.1 (5/31/01)	\$500	\$425
29 DCMR 316.2 (5/31/01)	\$500	\$425
29 DCMR 315.10 (5/31/01)	\$500	\$425
<b>TOTALS:</b>	<b>\$4100</b>	<b>\$3480</b>

#### **IV. Order**

Based on the foregoing findings of fact and conclusions of law, it is hereby this \_\_\_\_ day of \_\_\_\_\_, 2001:

**ORDERED**, that Respondents, who are jointly and severally liable, shall pay a total of **THREE THOUSAND FOUR HUNDRED EIGHTY DOLLARS (\$3,480.00)** in fines in accordance with the attached instructions within twenty (20) calendar days of the date of mailing of this Order (fifteen (15) calendar days plus five (5) days for service by mail pursuant to D.C. Code § 6-2715 (1981 ed.)); and it is further

**ORDERED**, that, if Respondents fail to pay the above amount in full within twenty (20) calendar days of the date of mailing of this Order, by law, interest must accrue on the unpaid amount at the rate of 1 ½% per month or portion thereof, beginning with the date of this Order. D.C. Code § 6-2713(i)(1) (1981 ed.), as amended by the Abatement and Condemnation of Nuisance Properties Omnibus Amendment Act of 2000, D.C. Law 13-281, effective April 27, 2001; and it is further

**ORDERED**, that failure to comply with the attached payment instructions and to remit a payment within the time specified will authorize the imposition of additional sanctions, including the suspension of Respondents' licenses or permits pursuant to D.C. Code § 6-2713(f) (1981 ed.), the placement of a lien on real or personal property owned by Respondents pursuant to D.C.



Code § 6-2713(i) (1981 ed.) and the sealing of Respondents' business premises or work sites pursuant to D.C. Code § 6-2703(b)(7) (1981 ed.).

/s/      **11/01/01**

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Mark D. Poindexter  
Administrative Judge